Patent claims

873. SHRI MANOJ BHATTACHARYA: Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether the Hon'ble Supreme Court of India has recently expressed serious concern on Government's failure to press for patent claims on India's behalf in the international forum;

(b) if so, the details thereof;

(c) the steps proposed to take appropriate and expeditious action to file patent claims on geographical indicators like Neem, Basmati rice and Turmeric, etc; and

(d) what further steps are being contemplated to give effect to the Court's order in this regard?

THE MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INSUSTRY (SHRI ASHWANI KUMAR): (a) (b), and (d) During the hearing of a Civil Writ Petition praying to direct the Government of India to facilitate revocation of a patent granted by European Patent Office on a soft-milling wheat, the Hon'ble Supreme Court had directed the appointment of a Committee to examine the matter. Accordingly, a Committee was appointed by Secretary, Department of Agricultural Research & Education and Director General, Indian Council of Agricultural Research. The report of the Committee has since been submitted to the Hon'ble Supreme Court. The patent in question was revoked on 3.10.2004 as per the European Patent rules.

(c) Patents are sought and obtained by applicants/inventor, both Indian and foreign, in different countries to safeguard and promote their commercial and other interest. Such patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, that is, they are effective only in the country of grant. In order to qualify for grant of patent in any country an invention, whether process or product, has to meet the criteria of patentability, namely, novelty, inventiveness and industrial applicability. Indian goods/items, which are already in public knowledge/domain, cannot be patented.

As patents are essentially private rights they are normally challenged, in accordance with the patent laws of the country concerned, by the person(s) whose interests are affected/jeopardized.

As and when information is received about patent being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patent can be challenged under the patent laws of the country concerned. Earlier a patent granted in the United States of America on he use of turmeric in wound healing was successfully challenged and was also cancalled by the Patent Office of the country concerned. Similarly, a patent on the fungicidal property of Neem, granted in Europe, was successfully challgend. The claims of the patent on Basmati Ricelines and grains granted in the United States of America which had the potential of affecting India's commercial interest were also challenged. The said claims were subsiquently cancelled by the United States Patent and Trademark Office and the title of the patent was also amended.

In order to provide better protection to goods bearing geographical indications, the Geographical Indications of Goods (Registration and Protection) Act, 1999 was enacted. This law provides for protection through registration of geographical indications. The registration of a geographical indication shall, if valid, give to the authorized user the exclusive right to the use of the geographical indication in relation to the goods in respect of which the geographical indication is registered. It also gives the registered proprietor and the authorized user the right to obtain relief in respect of infringement of the geographical indication. The Act was brought into force with effect from 15th September, 2003. This being a new legislation, steps have been taken to organize awareness programmes throughout India in a phased manner, and thereby to promote registration of Indian geographical indications. Fiften sensitization workshops were conducted during 2003-04 and 2004-05. As a result of these intiatives, the Geographical Indications Registry has been able to receive 46 applications for registration of geographical indications upto 31st December 2005, out of which 27 have already been regsitered. The registered goods bearing geographical indications, *inter alia*, include Darjeeling tea, Chanderi Sari, Pochampalli Ikat, Kota Doria, Kangra Tea, Coorg Orange, Channapatna toys and dolls, Nanjanagud Banana, Mysore Agarbathi, etc.

Border trade with Myanmar

†874. SHRIMATI SUSHMA SWARAJ: Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether it is a fact that border trade is being carried out between More Nagar, Manipur and Myanmar;

†Original notice of the question was received in Hindi.